

DET057237
 UNITED STATES DISTRICT COURT
 for the STATE OF MICHIGAN
 EASTERN DISTRICT, SOUTHERN DIVISION

JEFFREY LYNN GERMAIN and MARTY BRYAN MILLER and;
 STEPHEN SAUNDERS LEITH and JOHN J. ORLANDO and;
 WILLIE F. AGEE and EFREN PAREDES, Jr. et al
 and
 HENRY HILL, et al for Case number 10-14568 this Court.
 PETITIONER(s),
 vs. CASE NUMBER: _____

WARDEN LARSON, Warden for:
 Central Michigan Correctional Facility, 320 N. Hubbard St.
 RESPONDENT St Louis MO 63100

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Case:2:13-cv-12904
 Judge: Cleland, Robert H.
 MJ: Whalen, R. Steven
 Filed: 07-03-2013 At 10:16 AM
 HC GERMAIN ET AL V. LARSON (DA)

JOINT PETITION FOR WRIT OF HABEAS CORPUS, and;
 DEMAND FOR CLASS ACTION CERTIFICATION and CONSOLIDATION, and;
 IMMEDIATE RELIEF FOR PLAINTIFFS IN SUMMARY FORM and;
 MOTION FOR INJUNCTIVE RELIEF FOR CITIZENS WHO ARE BEING HELD AS
 "INMATES" IN THE VARIOUS MICHIGAN JAILS AS A RESULT OF THE
 CONTINUING PATTERN OF MISBEHAVIOR BEING PERPETRATED UPON THEM BY
 OSTENSIBLE AGENTS FOR THE GOVERNMENT ACTING IN COLLUSION AND
 UNDER COLOR OF AUTHORITY AND COLOR OF LAW

Now comes Jeffrey L. Germain and Marty B. Miller and Stephen
 S. Leith and John J. Orlando and Willie F. Agee and Efren
 Paredes, Jr. and Henry Hill, et al from case number 10-14568
 incorporated herein and hereafter collectively, referred to as the
 "Instant Petitioners" and/or "Class Representatives", also
 presenting are the collective plaintiffs, who are represented by
 the afore-mentioned petitioners and are individually identified
 by Name and Michigan Department of Correction ("MDOC") Numerical
 Identifiers that have been submitted on an attached list that is
 titled "EXHIBIT-VICTIMS", and are hereafter referred to as "Class
 Members" who also join in submitting to this court the following

Petition for Habeas relief by and through their collective agent, Amy E. Meissner - Germain, for this honorable Court to inquire into the cause of detention of the above captioned Petitioners and the identified "Class Members" who are currently restrained of their liberty in the Carson City Correctional Facility (DRF) located at 10274 Boyer Road Carson City, Michigan 48811-5008 and other ("MDOC") and Michigan State facilities respectively.

Jurisdiction in this court is proper to review this original action, Pursuant to 28 USC § 2241 (c)(1),(3); 28 USC § 2241 (d); 28 USC § 2242 et seq ; 28 USC § 2243 et seq ; 28 USC § 2244 et seq ; 28 USC § 2245 et seq ; 28 USC § 1343(a)(3); as well as 28 USC § 2254 (B)(1)(ii) exclusively.

The Petitioners assert for the record to the best of their knowledge and belief, that there are no other pending actions relative to these claims in any other Courts of competent jurisdiction.

CLASS CERTIFICATION is proper and is necessary, as well as required by law and pursuant to the Federal Rules of Civil Procedure ("FRCP") Rule 23, and more specifically;

FRCP 23(a)(1),(2),(3),(4);

FRCP 23(b)(1)(A)(3)(D);

FRCP 23(c)(A),(B),(C);

FRCP 23(c)(2)(A), (B)(i),(ii),(iii),(iv),(v),(vi),(vii);

FRCP 23(d)(1)(A),(B)(i),(ii),(iii);

FRCP 23(d)(1)(C),(D),(E).

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MEMORANDUM IN SUPPORT

The "Instant Petitioners" do hereby advance their legal argument in support of the granting of the Writ of Habeas Corpus and the Class Action Certification, by providing the following factual information and evidence to the Court as the rules of procedure prescribe and the law requires, and is hereby submitted in the following forms;

(1). Plaintiffs collectively share several irrefutable commonalities by way of evidence, that being no proper complaint or any complaint was/were ever filed, thereby proving that the inferior courts never had subject matter jurisdiction or any lawful authority and therefore all actions were/are void ab initio as absolute nullities regarding the attached captioned cases.

(2). Plaintiffs are illegally detained and unlawfully restrained of their Constitutional right to liberty, contrary to the Fourth Amendment of the United States Constitution.

The illegal and unlawful detention by the Instant Respondent/s is occurring in the ("MDOC") facility within the geographical confines of the State of Michigan and more specifically STF Correctional Facility.

Other facilities yet to be specifically identified, yet being the exact locations of other yet unidentified "Class Members", and equates to any facility in Michigan that is currently restraining individual citizens under the fictitious auspice of Constitutional Due Process, yet who are actually being similarly abused. These facilities are; e.g. City Jails, County Jails,

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Teshp. holding cells, etc.

(3). Plaintiffs are being restrained as a result of the various Respondant's reliance on illegal and unlawful orders of commitment that were/are being erroneously issued by various purported, Michigan State District Court and Circuit Court Judges and routinely upheld by State Court of Appeal Judges and State Supreme Court Judges who are actually acting under color of law and color of authority, whose decisions the various Respondents have been relying on in good faith, to continue the illegal and unlawful detention of the various plaintiffs.

(4). The purported Trial Court was without Subject Matter Jurisdiction as there was never a criminal complaint issued and/or filed upon which Plaintiff/s could have been arrested at the District Court level nor convicted at the "Trial Court" level.

Since no felony complaint included any crime/s for probable cause review by the Magistrate Judge at the District Court level so as to cause to be issued, a warrant for the arrest of plaintiffs, said warrants were never properly created nor filed.

Therefore, no valid "BIND OVER" could ever occur in order to cause the "VICTIMS" to be forwarded to any Michigan Circuit Court for any legal or lawful process, as all things occurring in this venue would be absolutely void as well.

(5). Respondent, Warden Larson, is the Warden of STF Correctional Facility, In St.Louis, Michigan, where the "Instant Petitioners" are being unlawfully detained.

(6). Respondents, yet to be identified are the Police,

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Sheriffs, Constables etc. etc. of the various aforementioned Michigan Jails and holding facilities, that are situated in Michigan, where the "Class Members" who have been and are being identified, are being unlawfully detained and imprisoned.

(7). The issue/s to be resolved involve legal principles of major significance to the State's jurisprudence, and questions the validity of the State District Courts and the Circuit Courts as well as the State Court of Appeals and the State Supreme Court, jurisdictional authority, where the purported charging devices failed to include the statutory mandated criterion vesting the court with any jurisdiction over the parties, even had they been filed(emphasis added).

The possible greater significance, is the overwhelming and, debilitating impact that these collective abuses have caused to, not only those illegally confined but to the families, loved ones and TAXPAYERS who have been systematically coerced, cajoled and bamboozled in order for the perpetrators to finance this self serving bastardizing of the law in order for the few to prosper at the expense of the many in this thing they call "The Business of Law".

(8). Plaintiffs assert that medical care is also being denied the restrained "Class Members" and that the substantial evidence that has been gathered by Officers of the Court and Members of the Michigan Bar Association is being withheld so that these same persons can financially profit from the aforementioned abuses.

Unfortunately, the Attorneys and Law Firm, i.e. Ari Kresch and Alyson Oliver of Kresch/Oliver PLLC, located at 24100

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Southfield Rd. Suite 305, Southfield, Michigan 48075 Tele:(248)-327-6556 and (800)-529-3476, were informed by Instant Petitioners, Germain in numerous letters and phone calls, though they still continue to turn a blind eye to these factual assertions while continuing to solicit in the tens of thousands, supposedly to file a class action law suit for the deprivation of medical treatments.

However, these particular attorneys do not seem to feel the legal or moral or professional obligation to inform on their legal brethren, either to their purported clients or the Courts.

Therefore, since they refuse to assist their purported clients, yet plan to prosper from their illnesses and captive status, it is the respectful request of the instant Petitioners that this Court shall Order these Attorneys as individuals and to Order the PLLC as well, to surrender the tens of thousands of acquired solicitations for information from these prisoners, so that known members can be matched to their questionnaires in order to consolidate claims for Judicial economy as well as, being able to discover new members.

We believe, as Class Representatives, these prisoners would rather have their freedom now rather than to wait for Kresch/Oliver PLLC to decide whether these persons are viable candidates for a very specialized class action suit.

They may never garner the "Client" one iota of money or one scintilla of freedom or any timely medical attention.

Mostly, because it appears not to be their intention to allow their purported clients, transparency with regard to their

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possible illegal restraint. Or to perform the required due diligence to ascertain whether the purported Clients are being illegally and unlawfully restrained.

Petitioners continue to reference Kresch/Oliver PLLC clients as purported because, the Law, the Rules of Professional Conduct and their oaths require them to investigate, participate and expose when they discover the aforementioned violations of law and deprivations of Constitutional Rights.

Since they fail to perform these duties, the persons who they call "clients" may only turn out to be fraudulently acquired victims. Any information that would confirm these assertions would not be privileged work product and is necessary to expedite exposure so that the truly sick, may acquire medical treatment more expediently than Kresch/Oliver PLLC is willing or able to provide them.

Additionally, Kresch/Oliver PLLC and any and all Attorneys working for or with them regarding a class action for deprivation of medical treatment involving Michigan prisoners ("Class Members"), should be barred from filing such an action as it is the intention of the certified class to subpoena these persons for documents and testimony, thus they would be conflicted as legal counsel.

Should this Court refuse to compel Kresch/Oliver PLLC or affiliates to surrender the requested documents, it is the intention of this Class, by and through its members to solicit every discernible "prisoner" that Kresch/Oliver PLLC solicited from "MDOC" databases or private sources providing the same

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contact information.

By their own admission a possible Fifteen thousand to approximately One Hundred thousand prisoners was their target solicitation.

It is our position (Class Representatives) that Kresch/Oliver PLLC potential claims should be required to be consolidated with the instant action. Especially since various member's health and possibly their lives are at stake.

(9). Plaintiffs assert that there is no other available remedy by law to address the illegal detention, other than by way of this Habeas Corpus proceeding at this time. Any request for redress in a State Court would be vexatious and utterly futile, since the State Judge at any level is more probably than not, himself/herself a perpetrator and coconspirator and NOT a Neutral Detached Magistrate or fact-finder, as the law requires.

Relevant Facts and Background
Common to All Asserted Claims

(A). Plaintiff/s are currently detained by the various respondents who, at all times relevant, are acting on behalf of the ("MDOC") and other Michigan State facilities, albeit under color of authority. Good faith reliance on a void order of commitment still does not justify the continuing restraint by the various respondents.

(B). Plaintiffs aver that their confinement is contrary to both State and Federal Constitutions, i.e. US CONST. AMS. IV, V, VI, XIV; and Const 1963, art 1 § 17.

(C). The law provides that it MUST first appear that an

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offense cognizable by the Court has been committed before it becomes the duty of the Magistrate to issue a warrant for arrest, since no valid warrants have ever been issued and/or filed anywhere as the law requires relative to the purported instant offense, it certainly stands to reason that the absence of such a warrant is either due to judicial abuse and bias or the actual recognized absence of the required elements that would allow/require the Magistrate to act, so he/she declines to act for the Prosecutor.

Issuing the Writ

(D). Plaintiffs urge this Court to grant the Writ forthwith and with out any delay and to compel Respondent to comply with this courts order for petitioners immediate release from confinement, as Petitioners and "Class Members" are imprisoned under an illegal premise in violation of their Constitutional Rights.

Summary of Arguments, and the Necessity for the Writ

Plaintiffs should prevail in this cause of action for their argument of the inferior courts lack of subject matter jurisdiction or any valid jurisdiction at all. Further the official record will demonstrate that there is/are no criminal complaint/s filed in the respective purported cases, that which begins the judicial process against the class members.

As jurisdiction always depends upon the allegations instead of the facts, the question of jurisdiction does not therefore depend on the truth or falsehood of the charge, but upon the nature ** it is determinable upon the commencement, not on the

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conclusion of the inquiry. This requires the filing of a felony criminal complaint containing specific requisite information that are sworn to as a matter of law and filed in a specific manner and at a specific location, also according to law. This required thing, to this date has never been done and as a result cannot lawfully be done. Therefore;

Standard of Review

As an original action in this court a de novo review is required and as such Petitioners present, adopt and hereby incorporate in toto and in support of their legal arguments, the official record of the lower court and proposed "Motion for Summary Disposition to Vacate Void Judgement for LACK OF SUBJECT MATTER JURISDICTION; and to Issue Immediate Order of Release" that is hereby attached and also contains the required bonifides and exhibits of evidence as is required to support plaintiffs assertions and factual allegations as well as book copies of Michigan Court Rules ("MCR") and Michigan Compiled Law ("MCL") and Case Law that has been disseminated by the U.S. Government, to continue to inform the citizenry of the decisions of the Superior Courts in proper context and as the law requires they be disseminated. These appendixes are collectively submitted under the title of "CUMULATIVE EXHIBIT ~~one~~ "A."

CONCLUSION

The factual assertions and allegations of Constitutional violations and governmental improprieties necessitate the intervention by this Honorable Court so as to, facilitate the review of the combined evidences so that the actual redress

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requested may be implemented forthwith and without any delay as the law provides. Time is of the essence, as the harms complained of continue to be exacerbated by the illegal repetitive bad acts of the aforementioned ostensible agents and their various cohorts who are purportedly doing their jobs daily.

RELIEF REQUESTED

WHEREFORE, Petitioners pray, that in light of all of the foregoing arguments and evidences listed above and attached hereto, that this honorable court shall grant the "Instant Petitioners" Writ of Habeas Corpus and issue an order that is appropriate to compel the ostensible agents for the government to relinquish the improper custodial control forthwith and without any delay.

Additionally, to identify, classify and certify the requested "Class" and to notify the "Class Members" of same. Also, to commence a proper and vigilant investigation and inquiry into the legality of detention of the various "Class Members" who have been identified, who are asserting that they are being illegally and unlawfully restrained and detained. Also, to grant the injunctive relief requested herein and issue appropriate Orders in order to enjoin the purported agents for the government from continuing their collective abuses and heinous deprivations of the Civil Rights that the State Constitution and more emphatically the United States Constitution provides for its citizenry. The Federal violations in these instances would be defined in Title 18 § 241 and 242 as well as 1509 as well as Title 42 § 1985.

This Court, should cause, by appointment if necessary, the

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assistance of counsel for the lawful facilitation of their ("Class Members") release from confinement, where ever they should be found to be imprisoned. And to provide any other redress that is lawful and that this Court considers just.

As well, Petitioners and Members would anticipate that the Court would initiate investigations as an Officer of the Court and an agent of the People, and to facilitate or assist in the facilitation of levying criminal charges against those who would be found, in this review, to be of a criminal nature. (i.e. Judges, Prosecutors, Police Officers, Attorney Generals, and Attorneys, as well as Governors), and any others who are subsequently exposed as being additional aiders and abettors, and defined as responsible parties to the kidnap of, and the illegal and unlawful confinement of the "Instant Petitioners" and the "Class Members", not withstanding the Frauds, Thefts, Extortion, Coercions, Misfeasances, Malfeasances, Nonfeasances, Perjury, Criminal Abuse of Public office, Filing False Official Reports, Acts of Omission, Fraud on the Court, Criminal Facilitation, Manslaughter, Second Degree Murder, Tyranny and NATIONAL TERRORISM etc. etc.

It would be prudent to keep in mind that the submitted attached list of "Class Members" is reflective of only a small portion of potential "Class Member" victims, that have suffered in at least the last 50 years, in the Courts, in the State of Michigan.

The Instant Petitioners would also respectfully request that this Court issue a continuing Order that allows the continued

amending of this Instant action as the specific identities of other Members become known and their location discovered. These potential Members could and should be identified through Court records which are public and these Members should be provided a forum for redress as the law and the Constitution of the United States provides for its citizens. This should be done to minimize and obviate the affirmative bad acts that were and are being visited upon these presumptively innocent citizens.

Respectfully Submitted

By Jeffrey L. Germain
PETITIONER/REPRESENTATIVE

JEFFREY L. GERMAIN

By Stephen S. Leith
PETITIONER/REPRESENTATIVE

STEPHEN S. LEITH

On behalf of John Doe/s and Jane Doe/s and;

Filed by: Amy E. Meissner - Germain AND DOMINIC ORLANDO

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Dated June 12, 2013

VERIFICATION

The above named Petitioner/Representatives hereby verify that the foregoing assertions and averments are true to the best of their information knowledge and belief. The above named Agent hereby attests that the foregoing Motions have been filed with the clerk of the Court for the United States District Court in the State of Michigan for the Eastern District, Southern Division on the ____ day of August 2012 by delivering to the Clerk pursuant to Court Rules.

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[Item (12)] *** Section D =

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[Item (22)] *** Section W =

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United States of America v State of Arizona // Case CV 10 1413 PHX SRB
(Filed July 5 2010) Decided July 28 2010

***Arizona appealed to the 9th Circuit Court of Appeals. The previous order and injunction was upheld in favor of the US. This decision was also Appealed to the Supreme Court of the United States SCOTUS.

***This case has also been referred to as:

***President Barack Obama v The Governor and the State of Arizona

***In June of 2012 the U S Supreme Court denied Arizona in greatest part and upheld the US citizenries right to be FREE FROM ARREST absent a valid WARRANT based on PROBABLE CAUSE and sworn to upon OATH OR AFFIRMATION of the COMPLAINANT while being decided by a NEUTRAL AND DETACHED MAGISTRATE WHO SHALL BY LAW BE ACTING AS THE INTERPOSER BETWEEN THE PRESUMPTIVELY INNOCENT CITIZEN/PERSON AND THE POLICE AND PROSECUTOR/S

This act by SCOTUS reaffirms the Court's continued and consistent opinion for over 200 years. Do we need to spend one more dime educating the Judiciary and the Prosecutors in toto in order to get it right?
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